

C. C. Kimball
General Attorney



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I. O. C.
FEE OPERATION
RECORDATION NO. 9128
DEC 20 1977-9 12 PM

Law Department
Terminal Tower
P. O. Box 6419
Cleveland, Ohio 44101
216-861-2200
623-2416

REGISTERED MAIL

INTERSTATE COMMERCE COMMISSION

File: 1302

December 19, 1977

Mr. H. G. Homme, Jr., Acting Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Attention: Mrs. M. R. Lee, Room 1227
Recordation Unit

Dear Sir:

7-354A018
DEC 20 1977
FEE \$ 50
CC Washington, D. C.

Enclosed are executed counterparts Nos. 4, 5 and 6 (of 6) of Agreement dated as of December 1, 1977, between General Motors Corporation (Electro-Motive Division), 9301 55th Street, LaGrange, Illinois 60525 (Bailor) and The Chesapeake and Ohio Railway Company, P. O. Box 6419, Cleveland, Ohio 44101 (Bailee).

The equipment covered by this Agreement consists of:

25 3000 H.P. Model GP 40-2 locomotives, to bear the Bailee's road numbers 4262 - 4286, inclusive.

A.A.R. Mechanical Designation: BB

The above equipment will be lettered "Chessie System", "C&O", or in some other appropriate manner, and will also be marked:

"
OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c"

Also enclosed is a draft of The Chesapeake and Ohio Railway Company in the amount of \$50 representing the required recording fee.

Pursuant to the Commission's rules and regulations for the recordation of certain documents under Section 20c of the Interstate Commerce Act, as currently administered, you are hereby requested to duly file one of the enclosed counterparts for record in your office and to return the remaining two to me at my above address.

Very truly yours,

C. C. Kimball

CCK:nk
The Chesapeake and Ohio Railway Company
Enclosures



The Baltimore and Ohio Railroad Company

Interstate Commerce Commission

Washington, D.C. 20423

12/20/77

OFFICE OF THE SECRETARY

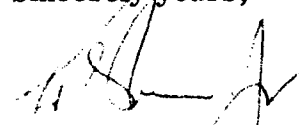
**C.C.Kimball, Gen. Atty.
Chessie System, Law Dept
Terminal Tower
P.O.Box 6419
Cleveland, Ohio 44101**

Dear

Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on **12/20/77** at **9:10am**
and assigned recordation number(s) **9128**

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

**SE-30-T
(6/77)**

9128
RECORDATION NO. Filed & Recorded

EXECUTED IN 6 COUNTERPARTS

OF WHICH THIS IS NO. 6

DEC 20 1977-9 10 AM

INLAND COMMERCE COMMISSION

AGREEMENT

Dated as of December 1, 1977

between

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

and

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

Covering

25 3000 H.P. Model GP 40-2 Locomotives

THIS AGREEMENT, dated as of December 1, 1977, by and between GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation (Manufacturer), and THE CHESAPEAKE AND OHIO RAILWAY COMPANY, a Virginia corporation (C&O):

WITNESSETH:

The Manufacturer and C&O heretofore entered into a letter Agreement dated July 26, 1977 (copy of which letter Agreement is made a part hereof by reference), and such addenda thereto and modifications thereof as may have been or may be agreed upon in writing between the Manufacturer and C&O, whereunder the Manufacturer agreed (among other things) to construct at its McCook, Illinois plant and to deliver to C&O, at Rockwell Street Yard, Chicago, Illinois, or at such other point or points as directed by C&O, and C&O agreed to accept and pay for 25 3000 H.P. Model GP 40-2 locomotives (Locomotives), to bear C&O road numbers 4262 - 4286, inclusive.

As contemplated by said letter Agreement, C&O intends to finance the purchase of the Locomotives from the Manufacturer pursuant to an Equipment Trust Agreement to be dated as of March 1, 1978, but deliveries of the Locomotives are scheduled to begin on or about January 3, 1978, and C&O will not have established said financing arrangement by that time nor be in position to take such deliveries thereunder. C&O represents that such financing arrangement will be established, however, on or before April 1, 1978. C&O, in order

In consideration of the premises, the Manufacturer hereby delivers to C&O and C&O hereby accepts from the Manufacturer the Locomotives as of the date each of them is delivered to C&O at Rockwell Street Yard, Chicago, Illinois, or such other point or points as may be directed by C&O, for the period ending on the earlier of April 1, 1978, or the date of establishment of said financing arrangement. On such termination date, this Agreement shall automatically be cancelled and superseded without further action by or notice to any party concerned.

Upon delivery of each Locomotive to the delivery point, C&O's representative will execute a certificate of acceptance acknowledging the receipt of delivery of such Locomotive under this Agreement. Title to the Locomotives shall remain in the Manufacturer and C&O's right and interest therein is and shall be solely that of possession, custody and use as bailee under this Agreement. Transfer of title shall be effected only at the time of delivery of bills of sale. C&O, without expense to the Manufacturer, will promptly cause this

Agreement to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate Commerce Act. In addition, C&O shall do such other acts as may be required by law, or reasonably requested by the Manufacturer, for the protection of the Manufacturer's title to and interest in the Locomotives.

C&O agrees that it will permit no liens of any kind to attach to the Locomotives; and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses or liabilities of whatsoever kind; and
- (b) pay any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Locomotives or the Manufacturer,

because of the Manufacturer's ownership or because of the use, operation, management or handling of the Locomotives by C&O during the term of this Agreement. C&O's obligations contained in this paragraph shall survive the termination of this Agreement.

C&O will, at its own expense, keep and maintain the Locomotives in good order and running condition and will at its option repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Locomotives which

may be damaged or destroyed by any cause during the term of this Agreement.

Prior to the delivery of each Locomotive to C&O under this Agreement it will be numbered with a road number as hereinbefore indicated, and there shall be plainly, distinctly, permanently and conspicuously marked upon each side of each Locomotive, in contemplation of said financing arrangement, the following legend in letters not less than one inch in height:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c"

C&O hereby agrees to indemnify the Manufacturer against any liability, loss or expense incurred by it as a result of the placing of the aforementioned markings on the Locomotives.

In case, during the continuance of this Agreement, such markings shall at any time be removed, defaced or destroyed on any Locomotives, C&O shall immediately cause the same to be restored or replaced.

All or any of the rights, benefits or advantages of the Manufacturer, including the right to receive the purchase price of the Locomotives as provided in the letter Agreement, may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time, provided, however, that no such assignment shall subject any such assignee to any of the Manufacturer's warranties, indemnities or any other

obligations contained in this Agreement or in the letter Agreement relating to the Locomotives. In the event the Manufacturer assigns its rights to receive the payments herein and/or under the letter Agreement, and C&O receives written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by C&O under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to C&O.

In the event of any assignment by the Manufacturer of its rights to receive any payments under this Agreement or under the letter Agreement, the rights of such assignee to such payments as may be assigned together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Locomotives, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to C&O by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by C&O, its successors and assigns only against the Manufacturer and its successors and assigns (other than assignees as such of rights, benefits or advantages assigned

pursuant to this Agreement).

C&O agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to C&O of the Locomotives, as contemplated by this Agreement, shall not relieve C&O of its obligations to accept, take and pay for the Locomotives in accordance with the terms of the letter Agreement, or impair any of the Manufacturer's rights under the letter Agreement.

Attest:

W. Thomas
Assistant Secretary

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By

P.K. Hogan
Vice President

Attest:

Patricia A. Hunsady
Assistant Secretary

By

L. C. Foyt
Assistant Vice-President
and Treasurer

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

APPROVED AS TO FORM

C.C. Kimball
GENERAL ATTORNEY
12/12/77

STATE OF ILLINOIS)

COUNTY OF COOK)

SS:

On this 16TH day of December, 1977, before me personally appeared P. K. HOGGLUND, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

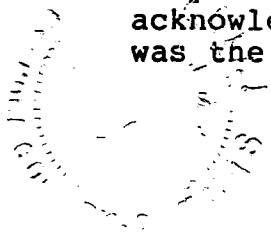
My commission expires January 27, 1979

STATE OF OHIO)

COUNTY OF CUYAHOGA)

SS:

On this 13TH day of December, 1977, before me personally appeared L. C. ROIG, JR., to me personally known, who, being by me duly sworn, says that he is Assistant Vice-President and Treasurer of THE CHESAPEAKE AND OHIO RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



CLARA MASUGA

State of Ohio - Cuyahoga County

My Commission Expires April 21, 1979